

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

|                           |   |                       |
|---------------------------|---|-----------------------|
| UNITED STATES OF AMERICA, | : | CRIMINAL ACTION       |
|                           | : |                       |
|                           | : |                       |
| v.                        | : |                       |
|                           | : |                       |
|                           | : |                       |
| MICHAEL WALKER,           | : | NO. 2:09-cr-00478-LDD |
| Defendant.                | : |                       |

ORDER

AND NOW, this 28th day of July, 2011, upon consideration of United States Government's and Defendant Michael Walker's respective objections to the Probation Department's Presentence Report (PSR), and consistent with the reasoning set forth in the accompanying Memorandum of this same date, the Court hereby ORDERS that:

1. Under Section 2B1.1(b)(1) of the United States Sentencing Commission Guidelines Manual, a 2-level enhancement reflecting gain to Walker in the amount of \$6,113 applies. The theory and methods the government relies upon to extrapolate loss, as generally adopted by the Probation Department, are not sufficiently reliable to support a sentencing decision. Because the actual loss to the victim can not be established, the gain amount of \$6,113 to Walker serves as a reasonable surrogate for loss in this case. Therefore, the government's objection is OVERRULED and Walker's objection is OVERRULED in part and SUSTAINED in part.
2. A 2-level enhancement for use of sophisticated means under Section 2B1.1(b)(9) does not apply, and the government's objection is OVERRULED.
3. A 2-level enhancement for abuse of a position of trust under Section 3B1.3 applies, and Walker's objection is OVERRULED.
4. A 2-level enhancement for obstruction of justice under Section 3C1.1 applies, and Walker's objection is OVERRULED.
5. A 2-level reduction for acceptance of responsibility under Section 3E1.1(a) applies, and Walker's objection is SUSTAINED.

6. The Total Offense Level for Walker's offenses is 13.
7. The Probation Department shall amend the PSR consistent with the rulings set forth above and in the accompanying Memorandum.

BY THE COURT:

/s/ Legrome D. Davis

Legrome D. Davis, J.